

REMARKS:

I. CLAIM AMENDMENTS

Claims 6, 14, 19, 32, 64, 65, 70, 75, 81, 85, 87, 92, 126 and 141 are amended as indicated in the preceding pages for purposes of clarity. As a non-limiting example, support for the amendments to claims 14, 19, 32, 75, 81, 85 and 92 can be found in the specification at least at page 5, lines 8-11; page 30, lines 18-25; page 35, line 22-page 36, line 20; and FIG. 6. No new matter is added.

II. ALLOWABLE SUBJECT MATTER AND CLAIM OBJECTIONS

The allowance of claim 142 is noted with appreciation. *See pp. 21-24 of the Office Action.*

The Examiner objected to claims 6, 114, 121, 126, 130, 136 and 141 as being dependent upon a rejected base claim. *See p. 24 of the Office Action.* It will be shown below that the independent claims from which these dependent claims depend are all allowable over the references cited by the Examiner. However, the Applicants reserve the right to amend one or more of these dependent claims to be independent claims at a later date.

The Examiner objected to claims 126 and 141 due to an informality. *See pp. 2-3 of the Office Action.* It is believed that the amendments to the claims render the Examiner's objection moot.

III. CLAIM REJECTIONS

Claims 2, 3, 6, 14, 19, 32, 63-65, 67, 69-72, 74-78, 81-89, 91-95 and 114-142 are currently pending with claims 14, 19, 32, 75, 81, 85, 92 and 142 being independent claims. Claims 1, 4, 5, 7-13, 15-18, 20-31, 33-62, 66, 68, 73, 79, 80, 90 and 96-113 were previously canceled without prejudice or disclaimer.

The Examiner rejected claims 2, 14, 32, 67, 71, 75, 76, 81, 85, 88, 92, 93, 116-118, 123, 124,

127, 128, 132, 133, 138 and 139 under 35 U.S.C. §103(a) as being unpatentable over *Proctor et al.* (U.S. Patent No. 5,519,779, referred to herein as "*Proctor*") in view of *Xu et al.* (U.S. Patent No. 6,885,638, referred to herein as "*Xu*") and further in view of *Chen* (U.S. Patent No. 6,014,621). *See pp. 7-13 of the Office Action.* The Examiner rejected claims 3, 19, 63, 65, 69, 74, 78, 82-84, 86, 91, 95, 115, 119, 122, 125, 129, 131, 134, 135, 137 and 140 under 35 U.S.C. §103(a) as being unpatentable over *Proctor* in view *Xu* and *Chen* and further in view of *El-Maleh* (U.S. Patent Application Publication No. 2002/0101844). *See pp. 14-19 of the Office Action.* The Examiner rejected claims 64, 70, 77, 87 and 94 under 35 U.S.C. §103(a) as being unpatentable over *Proctor* in view *Xu* and *Chen* and further in view of *Jacobs et al.* (U.S. Patent No. 5,414,796, referred to herein as "*Jacobs*"). *See pp. 19-20 of the Office Action.* The Examiner rejected claims 72 and 89 under 35 U.S.C. §103(a) as being unpatentable over *Proctor* in view *Xu* and *Chen* and further in view of *Garg* ("IS-95 CDMA and cdma2000," Prentice Hall, 2000). *See pp. 20-21 of the Office Action.* These rejections are respectfully disagreed with and are traversed below.

To warrant the §103(a) rejection of the pending claims, in view of all factual information, it must be determined that the claimed invention "as a whole" would have been obvious to one of ordinary skill in the art at the time the invention was made. The conclusion must be reached on the basis of the facts gleaned from the prior art. *See MPEP §2142.*

"All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. §103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed.Cir. 1988). *See MPEP §§2142, 2143.03.*

It is briefly noted that the arguments previously presented in prior Amendments and RCEs are maintained and incorporated by reference herein. Applicants respectfully disagree with the Examiner's interpretations and claim rejections as previously noted.

Amended claim 14 recites:

A method comprising:

receiving a request to transmit a frame using a second communication mode to reduce bit rate during transmission of said frame, wherein the frame comprises signal-coding parameters representative of a sound signal and wherein the frame is encoded in accordance with a first communication mode;

in response to the request, ~~dropping-discarding~~ a portion of the signal-coding parameters in said frame and keeping remaining signal-coding parameters unchanged in said frame to enable transmission of the frame using the second communication mode; and

inserting information into the frame, wherein the information indicates to a receiver that the frame is encoded in accordance with a particular communication mode that involves ~~dropping-discarding~~ the portion of the signal-coding parameters and keeping the remaining signal-coding parameters unchanged, ~~and~~ wherein the information enables the receiver to process the frame and obtain, from the frame as transmitted in accordance with the second communication mode, a version of the frame encoded in accordance with the first communication mode.

As clarified in amended claim 14, in response to the request a portion of the signal-coding parameters in the frame are ***discarded***. Furthermore, the remaining signal-coding parameters in the frame are ***kept unchanged***. These remaining, unchanged signal-coding parameters are transmitted via the frame (as encoded in accordance with a particular communication mode) using the second communication mode. Thus, as recited in claim 14, some of the signal-coding parameters are discarded or dropped and some of the signal-coding parameters (i.e., the remaining ones) are kept unchanged in the frame.

The Examiner cited a combination of *Proctor*, *Xu* and *Chen* in the rejection of claim 14.

Proctor discloses that a coding rate adjustment from a higher rate to a lower rate is achieved

(for each frame) by re-encoding the signal coding parameters. For example, at column 5, line 62-column 6, line 12, *Proctor* explains that the LSP parameters are decimated by re-quantizing them to a lower coding rate. As such, *Proctor* cannot be seen to disclose or suggest "in response to the request, discarding a portion of the signal-coding parameters in said frame and keeping remaining signal-coding parameters unchanged in said frame to enable transmission of the frame using the second communication mode," as recited in claim 14.

Xu discloses selectively dropping entire packets. See abstract; col. 4, lines 9-36; col. 5, lines 33-43. As such, *Xu* cannot be seen to disclose or suggest "in response to the request, discarding a portion of the signal-coding parameters in said frame and keeping remaining signal-coding parameters unchanged in said frame to enable transmission of the frame using the second communication mode," as recited in claim 14.

It is noted that *Chen* is not seen to remedy the above-noted defects of *Proctor* and *Xu*.

The features recited in claim 14 are not disclosed or suggested in the cited art. *Proctor*, *Xu* and *Chen* cannot be seen to render obvious the subject matter recited in claim 14. Therefore, claim 14 is patentable and should be allowed.

Though dependent claims 2, 3, 6, 63-65, 67 and 114-116 contain their own allowable subject matter, these claims should at least be allowable due to their dependence from allowable claim 14.

Independent claims 19, 32 and 85 claim similar features as claim 14 noted above. For the same reasons stated above with respect to claim 14, *Proctor*, *Xu* and *Chen* cannot be seen to render obvious independent claims 19, 32 and 85. Therefore, these claims are patentable over the cited prior art and should be allowed.

Though dependent claims 69-72, 74, 86-89, 91, 117-126 contain their own allowable subject matter, these claims should at least be allowable due to their dependence from allowable

independent claims 32 and 85.

Independent claims 75, 81 and 92 recite at least one element similar to some of the above-noted portion of independent claim 14. As a non-limiting example, claim 81 recites in part: "wherein the information indicates that the frame is encoded in accordance with a particular communication mode instead of a first communication mode to reduce bit rate during transmission of said frame, **wherein the particular communication mode involves dropping a first portion of the signal-coding parameters and keeping a second portion of the signal-coding parameters unchanged.**" For the same reasons stated above with respect to claim 14, *Proctor, Xu and Chen* cannot be seen to render obvious independent claims 75, 81 and 92. Therefore, these claims are patentable over the cited prior art and should be allowed.

Though dependent claims 76-78, 82-84, 93-95 and 127-141 contain their own allowable subject matter, these claims should at least be allowable due to their dependence from allowable independent claims 75, 81 and 92.

IV. CONCLUSION

While this Amendment is deemed to be fully responsive to the objections and rejections in the outstanding Final Office Action, the Applicants respectfully reserve the right to argue one or more of the dependent claims when responding to any future actions, such as when responding to further Office Actions or in an Appeal Brief.

The Examiner is respectfully requested to reconsider and remove the rejections of claims 2, 3, 14, 19, 32, 63-65, 67, 69-72, 74-78, 81-89, 91-95, 115-120, 122-125, 127-129, 131-135 and 137-140 under 35 U.S.C. §103(a) and to allow all of the pending claims as now presented for examination. For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record. Should any unresolved issue remain, the Examiner is invited to call Applicants' representative at the telephone number indicated below.

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Respectfully submitted:

A handwritten signature in cursive script, appearing to read "Alan L. Stern", written over a horizontal line.

Alan L. Stern

October 21, 2010

Date

Reg. No.: 59,071

Customer No.: 29683

HARRINGTON & SMITH, ATTORNEYS AT LAW, LLC

4 Research Drive

Shelton, CT 06484-6212

Telephone: (203) 925-9400 ext. 18

Facsimile: (203) 944-0245

E-mail: astern@hspatent.com

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